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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/634,601 | 08/04/2003 | Cynthia Lohman | | 7033 |

7590
Robert J. Ireland
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04/29/2005

EXAMINER

SWENSON, BRIAN L

| ART UNIT | PAPER NUMBER |
|----------|--------------|
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3618

DATE MAILED: 04/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|---------------------------------|--|
| Office Action Summary | Application No. 10/634,601 | Applicant(s) LOHMAN, CYNTHIA | |
| | Examiner Brian Swenson | Art Unit 3618 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 04 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>8/4/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to because:
 - a. The CAD borders and legends in the Figures do not provide an adequate margin, SEE 37 CFR 1.84(g), the examiner suggests removing the borders and legends.
 - b. The first of the five figures filed on 4 August 2003 does not contain a Figure Number or Reference Numbers. The specification only mentions four Figures. The unlabeled figure should either be removed or given a Figure Number and made of reference in the specification.
 - c. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description for example: three lanyard attachments (50,60,70), pockets (20,30,40), pacifier (90), cloth backing (21), etc.
 - d. The drawings and specification do not appear to correspond with each other, as the references numbers found in the specification are not found in the drawings and vice-versa. Applicant can view the drawings that were used for examination by view U.S. Patent Publication No. **2005/0029760**.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure

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number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The abstract of the disclosure is objected to because:

"The present invention is a shopping cart child seat protection," should be changed to:

—A shopping cart child seat protection, —

Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 2 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not

described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. There is no teaching of a "medial layer" in the specification or shown in the drawings.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitations:

"the upper frame rail" in line 1;

"the common shopping cart" in line 2.

There are insufficient antecedent basis for these limitation in the claim. The examiner suggests amending line 1 to read --an upper frame rail-- and amending line 2 to read --a shopping cart--.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,722,672 issued to Frederick.

Frederick, teaches in Figures 1-7b and respective portions of the specification of a washable (see at least Col. 2, line 36) and reusable sanitary cover that removably engages to the upper frame rail (12; Figure 4a) of a foldable child seat found in a common shopping cart (Figure 1) having a top portion (32) attaching to the upper frame rail and a bottom portion (33,34) hanging downward therefrom, the cover comprising: a rectangularly shaped member (32) having an inner surface (41), medial layer (42) and outer surface (43; see also Col. 3, lines 33-40) sew/stitched-together (Col. 3, lines 38-39); a first fastening strip of hook (27A) material attached to the top portion along the entire width of the inner surface (Figure 3); a second fastening strip of loop material (28) attached along the entire width of the inner surface, half way (Figure 3) between the top portion and bottom portion of the cloth member; wherein the top portion is constructed and arranged to radially wrap around the upper frame rail of the fold out child seat (Figure 4a), removably engaging the first fastening strip with the second fastening strip on the inner surface, interlocking the hook and loop surfaces.

Frederick discloses the claimed invention except for teaching of cloth as the preferred material for the layers, it would have been obvious to one having ordinary skill in the art at the time of invention to use cloth, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. See at least Col. 2, line 5 where Frederick discloses that cloth is a known material in the cover art.

Federick shows, the shape of the cover is T-shaped in Figure 3, with the second fastening strip located at the mid-point of the cover. It would have been obvious to one

having ordinary skill in the art at the time of invention to extend the lower vertical section (3) the width of the upper horizontal section (32) to allow for at least three pockets to be formed in the lower section of the cover, in accord with Frederick's teaching in col. 4, lines 20+ that at least one pocket is provided for housing items.

6. Claim 4, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Frederick, in view of U.S. Patent No. 5,715,571 issued to Fasano.

Frederick as disclosed above teaches the claimed invention except for teaching of a plurality of lanyards.

Fasano teaches in Figures 1-6 and respective portions of the specification of a shopping cart handle cover including teaching of three lanyards (22; Figure 1) and teaches of a securing device (26) at the lower ends of each, taken to be a hook and loop closure based on the similarity with hook and loop fastener (16; shown in Figure 3). It would have been obvious to one having ordinary skill in the art at the time of invention to provide a plurality of lanyards as taught by Fasano in the invention taught by Frederick. One would be motivated to provide a plurality of lanyards based on Frederick's teaching that "loops may be attached to fasten toys or pacifiers (Col. 5, lines 44-47)".

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,832,766 issued to Stokes teaches of a cloth protective cover for a handle, see Figure 2.

U.S. Patent No. 6,851,749 issued to Norman teaches of a shopping cart insert.

U.S. Patent No. 6,676,210 issued to Peyton teaches of a cover for a high chair including teaching of lanyards (29).

U.S. Patent No. 5,829,656 issued to Reitz et al., U.S. Patent No. 5,702,039 issued to Olaiz and U.S. Patent No. 3,085,610 issued to Vardan all teach of other pertinent art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Swenson whose telephone number is (571) 272-6699. The examiner can normally be reached on M-F 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

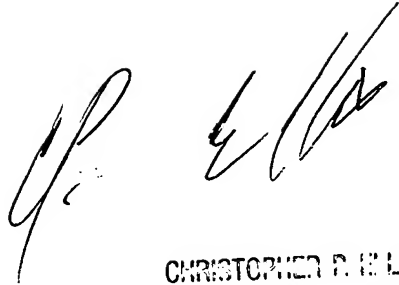
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